

Mr. President, the Patients' Bill of Rights is not on the majority leader's list of bills to be considered. The majority leader has made available to the Members which pieces of legislation he is going to call up to the floor of the Senate over the period of these next few weeks until the Fourth of July break, then the period of July and then coming into the time that we will be meeting in September. There is a whole series of bills on that list, but one that is missing and one that cries out for action as well is the Patients' Bill of Rights. We want to have the opportunity to debate and consider it, but we are unable to either get a markup of the legislation in our Human Resources Committee, the committee of appropriate jurisdiction, or on the floor of the U.S. Senate. And that is, I think, unacceptable. We are not able to have it considered—not this month, not next month, not for the remainder of this Congress. Evidently, he stands shoulder to shoulder with the guardians of the status quo who want to continue the health insurance abuses. Protecting patients may not be on the majority leader's priority list, but it is on the priority list of American families. And it is on the priority list of more than 100 organizations of doctors, nurses and patients who wrote Leader LOTT and Speaker GINGRICH yesterday asking that this legislation be considered.

I believe this is on the priority list of a majority of Members of the Senate and House—a bipartisan majority that want to protect families, not the profits of the insurance companies. Our leader on this side of the aisle, TOM DASCHLE, has said that we will offer the Patients' Bill of Rights on the first available appropriate vehicle. The American people deserve action.

The American people deserve to have their health care decisions decided by the doctors and the medical profession rather than the accountants for the insurance industry. We have had over the period of these past weeks series after series of incidents of how our fellow citizens' lives have been lost or permanently damaged because of our failure to address this particular issue. The President last year called forth a commission, which was bipartisan, which made unanimous recommendations—Republican and Democrat alike.

The Patients' Bill of Rights legislation, which has been introduced by Senator DASCHLE and which I have been honored to cosponsor with a number of our colleagues, basically reflects the judgment put forward by that bipartisan group of outstanding, thoughtful men and women who are a part of our health care system. We here in this body should address this issue, and we will. We are giving as much notice as possible to the leaders that this is an issue that is not going to go away. We are going to address it. We would vastly prefer addressing it in a way that will accommodate the kind of debate and discussion this issue de-

serves, but if we are not given that kind of assurance, if we are not given time to address this issue, then we will use whatever parliamentary means we must because the American people expect it.

This is a measure of enormous importance in protecting the health and the well-being of families in this country. Families that are facing medical crises, as I mentioned, should have these decisions decided by the health professions. They ought to be able to get the specialists they need. If it is, in a woman's case, a gynecologist or obstetrician, they ought to be able to call on and get the kind of specialty care they need. Women in our society ought to be able to participate in clinical trials, not be denied some of the best that is available out there that offers, in many instances, the opportunity for real hope of a possible cure or a significant improvement in their well-being. They should not be denied that. They are denied that in too many instances today.

Newborn children ought to be guaranteed they are going to be able to get the pediatric specialists who can help guide a newborn child or a baby to be able to deal with some of those extraordinary challenges that are evidenced in the first days and weeks of life. We ought to prohibit the kind of gag orders that are out there today in so many instances where doctors who are trying to practice their medicine are denied the opportunity to provide the whole range of choices and options to their patients and they are prohibited because of the HMO's decision.

We want to eliminate the kinds of incidents that have been reported on the floor of the Senate where ambulances will drive by the emergency room of a particular hospital and take someone who is in need of emergency treatment to a distant hospital because the HMO is not going to reimburse that individual for the treatment and emergency services at that particular hospital. That makes no common sense, and it does not make any sense even on the bottom line for these companies.

These kinds of things are happening every single day, and every single day we delay the debate, discussion, and conclusion of this legislation, the health of Americans across this country is being compromised. That is wrong.

We have had bipartisan support for this legislation. The two doctors in the House of Representatives, Republicans, have both supported a Patients' Bill of Rights. They are urging that we take action. I commend them for their courage and for their leadership. It is imperative that we move ahead and take action in the very near future. Every day that goes on and we fail to do so, thousands of families are being put at risk. I hope that on the first vehicle after we conclude this legislation we will have an opportunity to address it.

## TOBACCO LEGISLATION

Mr. KENNEDY. Mr. President, I see our colleague and friend from Arizona in the Chamber at this time. I just want to join with the others in commending him for his leadership on this issue, on tobacco legislation. I think he has really been a very important and powerful voice in moving this process forward, and we certainly hope under his leadership we will move towards a successful conclusion in this next week.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. I thank the Senator from Massachusetts for his kind remarks. As always, I am very appreciative. Sometimes, as he knows, it helps me a little more if he criticizes me from time to time, which he also does from time to time. I thank Senator KENNEDY for his involvement in this issue. He has been in the Chamber talking about it quite a bit. Obviously, Senator KENNEDY has not agreed with me on certain aspects of the bill, but we are in agreement—in fact, I think it is important that those who watch this debate understand that we are all interested, on both sides of the aisle, in trying to resolve this issue because we are concerned about our children and the fact that, as we know, teenage smoking in this country is on the rise.

## PROGRESS ON THE TOBACCO BILL

Mr. MCCAIN. Mr. President, I note the presence of Senator REED, and I will be brief because I know he wants to discuss his amendment further.

Later on, Senator GRAMM will come to propose his amendment. I understand that Senator GRAMM has to go to the dentist so he perhaps may not be in his usual sunny, rosy mood as he usually is when he comes to the floor, especially debating this issue, but I am told that he will come later this morning to propose his amendment which we do plan to vote on Monday, sometime after 5 o'clock, I believe is the unanimous consent agreement.

Again, because of headlines that I have seen this morning and comments in the various newspapers about the attitude that some have taken towards the legislation, I would like to review where we have come and where we are.

Yesterday, we made further progress. We are at the point wherein I believe we can and should finish our business expeditiously. I say that for two reasons. One is the progress that we have made, but also we are all aware now, as we have been on this bill for 3 weeks—and we are going to be on it next week. I will have to ask somebody to look up when was the last time we have spent

4 weeks on a single piece of legislation, but it is not very often, obviously.

Mr. President, I think the point here is that we have been 3 weeks debating this bill. We have debated many aspects of it, some aspects of it, in the case of attorneys' fees, more than once, and that may be revisited again. But let us look at what we have done. We have provided critical funding for ground-breaking health research to find new treatment and cures for killer diseases including cancer and heart and lung diseases. These initiatives obviously are supported on both sides of the aisle. It includes assistance to our Nation's veterans who suffer from smoking-related illness.

Mr. President, I thought one of the least laudatory things that took place in the ISTEA process was that we basically, at least at one point, declared that veterans who smoked while they were in the service were guilty of gross misconduct. I still find that unbelievable, since we all know that veterans and members of the Armed Forces were encouraged to smoke. Tobacco was provided along with meals—smoke breaks. We all know that smoking was encouraged. In this bill, now we are going to earmark \$3 billion to try to treat veterans who have incurred tobacco-related illnesses. I think that is very important, that they receive that assistance. I think it has to be one of our highest priorities.

We have included a major antidrug effort to attack the serious threat posed by illegal drugs, both through prevention education as well as interdiction. By the way, that is a Republican amendment, a conservative amendment, and one that was approved by both sides of the aisle because of the importance that the American people feel is associated with illegal drugs.

It now contains one of the largest tax decreases in many years, a nearly \$200 billion tax cut that would eliminate the marriage penalty for low- and moderate-income Americans and achieve 100 percent deductibility of health insurance for self-employed individuals. I think most of us on both sides of the aisle believe the marriage penalty is unfair and that low-income Americans should be the first ones to receive relief. We think it is unfair for companies and corporations to have tax deductibility for their health care insurance yet individuals do not.

I think it is important that we understand, also, when we are talking about taxes on the American people, that today \$50 billion of America's tax dollars go to treat tobacco-related illnesses, almost \$455 per taxpaying household in every year. It provides the opportunity to settle 36 pending State cases collectively, efficiently, and in a timely fashion.

I also want to mention again, some are of the impression that if this bill leaves the floor of the Senate, it disappears—as some, I am told, especially in the other body, would like to see happen. But there would still be 37

States that go to court. There will still be enormous legal fees. There will still be incredibly high settlements. In Minnesota, it was a \$6.5 billion settlement, which was \$2.5 billion above what was agreed to in the June 20 agreement. Just a few days ago, an individual won a court case that included punitive damages. There are literally thousands and thousands of cases lined up to go to court. Mr. President, those who believe that somehow this issue will not go on—the question is: Where does it go on? Does it go on in every courtroom in America?

Does it go on in States, 37 of them now—and I cannot imagine the remaining 10 of the 40 that did not enter into agreement between the attorneys general and the industry will not join sooner or later. Would that not continue, in fact would that not accelerate? The attorneys general tell me they are just waiting to see what we do.

There is a settlement in Mississippi. There is a settlement in Florida. There is a settlement in Minnesota. They entail billions and billions of dollars. What about the tax? According to reliable publications, the price of a pack of cigarettes just went up 5 cents because of the Minnesota settlement. Does anyone believe that when they make these massive payments the cost is not passed on to the consumer?

So I want to remind everybody, we are coming up on a crucial week. It is hard for me to imagine that we would continue on this legislation for very much longer. We can either move forward to a conclusion, because we have addressed most of the issues—the farm issue is still out there and we need to get a reasonable resolution of it—but for the life of me, I do not know of another major issue associated with this legislation. There may be substitutes that refine it, or even change it substantially, but the general outlines of the legislation we all know. So we are either going to move forward and closure will be invoked, which puts us on autopilot to completion, or we will not.

I am not an expert on tobacco. I am not an expert on public health, nor have I ever claimed to be. I claim some expertise on national defense and security issues. I claim some expertise on telecommunications, aviation—other issues. I don't claim expertise on this. But I was asked by the leadership to move a bill through the Commerce Committee. We did, with a 19 to 1 vote. Then the majority leader scheduled the bill to come to the floor. I did not. I didn't make the scheduling decisions. Obviously, since the legislation went through the committee which I chair, I am the manager of this bill. I do not seek any sympathy for the fact that I have been criticized by both sides of the political spectrum rather severely, including a \$100 million, so I am told, tobacco advertising campaign. But I do believe that all of us have the right to expect now to move to a conclusion to this issue. That conclusion is either a

final passage or, somehow, the bill leaves the floor—although I am not sure my friends on the other side of the aisle would do so with alacrity.

But if the decision is made, or if we are unable to move forward, please, let no one be under the illusion that the issue is going away if it leaves the floor of the U.S. Senate. There will be a myriad of lawsuits. There will be incredible activity in the courts of America. And to those who are concerned about lawyers getting rich, I guarantee, they will get a lot richer under those circumstances than under ours. But that doesn't bother me. The thing that bothers me is, if we do not move forward, as I mentioned the other day, there are winners and losers; and the winners will, obviously, be the tobacco companies. They will have gotten a significant return from their \$100 million ad campaign. The losers may be me, maybe even the Senator from Massachusetts, but the real losers will be the children of America.

Today, 3,000 kids start smoking. One thousand of them will die early. Tomorrow, the same, and the next day, the same, and it is on the rise. We will address, as a nation, the issue of tobacco and the issue of kids smoking. There is no doubt of that in my mind, because of the obligation we have. It is a question of how, and when. By moving this legislation forward, we can do it sooner rather than later. I am more than willing to stay on this floor all summer, if necessary. But I do not think we can afford to do that, because of the compelling legislation that we have to achieve legislative results on by the beginning of October when, there is no doubt in my mind, given the fact that it is an even-numbered year, we will go out of session.

So I urge all of my colleagues to recognize that we are now reaching a point, next week, where we either have to move forward or not. I will abide by the will of the majority and what the leadership on both sides of this body decide. I will regret it, obviously, if we do not move forward. But I also will far, far more regret the effect that it will have on the children of America.

I note the presence of my friend from Massachusetts as well as the Senator from Rhode Island, and I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is now closed.

#### NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1415, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1415) to reform and restructure the processes by which tobacco products are